

Appl. No. : 10/020,853
Filed : December 11, 2001

REMARKS

In response to the Office Action mailed May 21, 2003, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 1-17, 22-26, 31-43 and 46-67 remain pending. Claim 1 has been amended, and new Claim 67 has been added.

In the Office Action mailed March 26, 2003, the Examiner rejected Claims 1-8, 11-14, 22-26, 40, 43 and 62 under 35 U.S.C. § 102(a) as being anticipated by Glick et al., WO 00/66037 (hereinafter, "Glick"), and rejected Claims 9, 10, 15-17, 31-39, 46-60 and 63-66 under 35 U.S.C. § 103(a) as being rendered obvious by Glick. Claims 41 and 42 were rejected as being obvious over Glick in view of Hara, JP 2-126847A (hereinafter, "Hara") and Claim 61 was rejected as being obvious over Glick in view of Young et al., USP 6,258,123 (hereinafter, "Young"). The Examiner also indicated that certain references cited by Applicant were not considered due to various informalities.

Claim 1

The Examiner rejected Claim 1 under 35 U.S.C. § 102(a) as being anticipated by Glick. In response, Claim 1 has been amended in a manner which is believed to obviate the Examiner's rejection. In particular, Claim 1 has been amended to include an additional feature of a preferred embodiment of an accommodating intraocular lens. In this embodiment, the anterior and posterior optics are relatively movable along the optical axis between an accommodated position (where the optics are relatively far apart) and an unaccommodated position (where the optics are relatively close together). Claim 1 now emphasizes that the optics are biased toward the accommodated position in which the optics are relatively far apart.

When implanted in the capsular bag, the biasing force causes the anterior and posterior optics to separate, so that they move apart along the optical axis when the ciliary muscle provides slack in the capsular bag. When the ciliary muscle applies tension to the capsular bag, the tightened bag overcomes the biasing force and pulls the two optics towards each other along the optical axis. Thus, the force of the ciliary muscle is used to draw the optics together (into an unaccommodated state), while the biasing force is used to separate them (into an accommodated state).

Appl. No. : 10/020,853
Filed : December 11, 2001

Contrary to the presently claimed IOL, in which "said optics are biased toward said accommodated position," Glick states that force by the ciliary muscle moves the optics into an accommodated position:

The ciliary muscle and zonules of the eye provide force sufficient to move axially second optic 14 sufficiently to provide accommodation to the wearer of ILC 10.

The ILC is placed in a rest position in the eye, for example, a position so that the eye, and in particular the ciliary muscle and zonules of the eye, effectively cooperate with the movement assembly to move the second optic of the ILC anteriorly in the eye from the rest position to provide for positive accommodation.

Movement member 18 includes a region of reduced thickness 42 located at the proximal end region 22. This area of reduced thickness, which completely circumscribes the second optic 14, acts as a hinge to provide additional flexibility to the movement member 18 to extenuate or amplify the accommodating movement of second optic 14 in response to the action of the ciliary muscle and zonules.

[P]rojections 50 ... limit the posterior movement of the second optic 114 and movement assembly 118. This limitation in the movement provides an additional degree of control of the ILC 110, and prevent a collapse of the ILC 110 and maintains an advantageous degree of separation between second optic 114 and anterior surface 48 of lens structure 40.

See Glick at page 13, ll. 19-26; p. 8, ll. 29-34; p 12, ll. 23-29; p. 16, ll. 2-9 (emphasis added).

From the foregoing, it will be appreciated that the presently claimed invention functions in an entirely different way than the Glick ILC. In Applicant's lens, the ciliary muscle force moves the anterior and posterior optics toward each other into an unaccommodated state, while these two optics are biased away from each other to provide accommodation. In other words, in the claimed invention movement towards the accommodated state is provided by biasing, not by ciliary muscle

Appl. No. : 10/020,853
Filed : December 11, 2001

force. In the Glick ILC, movement toward the accommodated state is provided by ciliary muscle force, not by biasing.

In view of the above distinctions, Applicant respectfully submits that amended Claim 1 is in condition for allowance over the prior art. Applicant further respectfully submits that Claims 2-17, 22-26, 31-43 and 46-67 (Claim 67 being new) are also in condition for allowance over the prior art, by virtue of their dependence from an allowable base claim, as well as their recitation of further novel and unobvious combinations of features.

Fourth Supplemental Information Disclosure Statement

In the recent Office Action, the Examiner indicated that certain references cited by Applicant were not considered due to various informalities. Applicant submits herewith a Fourth Supplemental Information Disclosure Statement, including copies and (where applicable) translations of these non-considered references. Therefore, Applicant's citation of these references is now believed to comply fully with 37 C.F.R. § 1.98. The Fourth Supplemental Information Disclosure Statement also cites additional references for consideration by the Examiner, and is accompanied by the fee set forth in 37 C.F.R. § 1.17(p).

Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is most earnestly solicited.

Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Any arguments in support of patentability and based on a portion of a claim should not be taken as founding patentability solely on the portion in question; rather, it is the combination of features or acts recited in a claim which distinguishes it over the prior art.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped

Appl. No. : 10/020,853
Filed : December 11, 2001

issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Mark J. Kertz at (949) 721-6318 to resolve such issue(s) promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Sep 3, 2003

By: Mark Kertz
Mark J. Kertz
Registration No. 43,711
Attorney of Record
Customer No. 20,995
(949) 760-0404

H:\DOCS\MJK\MJK-6206.DOC 081503